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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,702	09/29/2003	Toru Saito	03500.017609.	7432
5514	7590	11/18/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			CHEN, SOPHIA S	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,702

Applicant(s)

SAITO ET AL.

Examiner

Sophia S. Chen

Art Unit

2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 5 is/are rejected.
- 7) ☒ Claim(s) 2,3,6 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/12/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. Figures 4 and 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 207 (Figure 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the sectional cross-hatching of reference characters 109a, 109b (Figure 4), and 32 (Figures 2 and 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections – 35 U.S.C. §102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by
Yoneda et al. (US Pat. No. 6,118,955)

The patent discloses an image forming apparatus (a printer) 11 including image forming means 12 through 15 for forming an unfixed image on an image transfer member (paper) 10 to which an image should be transferred and a fixing device 24 for fixing the unfixed image to the image transfer member 10 (Figure 1), comprising: a fixing film (belt) 34 having an elastic layer (column 4, lines 49-59); a heat generating element (a heat roller) 33 provided so as to affect a non-fixing surface of the fixing film 34 (Figure 6); at least one first temperature detecting element TH2 for detecting a temperature of the fixing film 34 (column 5, lines 45-47 and Figure 6); at least one second temperature detecting element TH1 for detecting a temperature of the heat generating element 33 (column 5, lines 43-44 and Figure 6); and a first (and only one, emphasis added) controlling unit 61 for controlling the heat generating element 33 on

the basis of the detection temperature detected by the first temperature detecting element TH2 (column 8, lines 6-11 and 60-62).

7. Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Akizuki et al. (US Pat. Pub. No. US 2004/0033084 A1)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Akizuki et al. discloses an image forming apparatus including image forming means 1Y, 1M, 1C, and 1Bk for forming an unfixed image on an image transfer member P to which an image should be transferred and a fixing device 12 for fixing the unfixed image to the image transfer member P (Figures 1 and 2), comprising: a fixing film (belt) 20 having an elastic layer (paragraph [0103]); a heat generating element (a ceramic heater) 16 provided so as to affect a non-fixing surface of the fixing film 20 (Figure 2); at least one first temperature detecting element (main thermistor) 18 for detecting a temperature of the fixing film 20 (paragraphs [0107] and [0115]); at least one second temperature detecting element (sub thermistor) 19 for detecting a temperature of the heat generating element 16 (paragraphs [0107] and [0117]); and a first (and only one, emphasis added) controlling unit 21 for controlling the heat generating element 16 on

the basis of the detection temperature detected by the first temperature detecting element 18 (paragraph [0110] and Figures 2 and 5).

Akizuki et al. further discloses the heat generating element 16 includes a ceramic substrate and a resistance heat generating body provided on the ceramic substrate (paragraph [0119]).

8. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Allowable Subject Matter

9. Claims 2, 3, 6, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Other Prior Art

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takagi et al. (US Pat. Pub. No. US 2002/0017519 A1) discloses an image forming apparatus comprising a fixing device having a fixing roller; a heat generating element; a first temperature detecting member for detecting the temperature of the fixing roller; a second temperature detecting member for detecting the temperature of the heat generating element (coil).

Takagi et al. (US Pat. Pub. No. US 2003/0002882 A1) discloses an image forming apparatus comprising a fixing device having a fixing roller; a heat generating element; a first temperature detecting member for detecting the temperature of the fixing roller; a second temperature detecting member for detecting the temperature of the heat generating element (coil).

Okano (US Pat. Pub. No. US 2003/0099478 A1) discloses an image forming apparatus comprising a fixing device having a fixing belt; a heat generating roller; a first temperature detecting member for detecting the temperature of the fixing belt; a second temperature detecting member for detecting the temperature of the heat generating roller.

Shimazaki et al. (JP 2001-117412 A) discloses an image forming apparatus comprising a fixing device having a fixing belt; a heat generating roller; a first temperature detecting member for detecting the temperature of the fixing belt; a second temperature detecting member for detecting the temperature of the heat generating roller.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sophia S. Chen whose telephone number is (703) 308-7617. The examiner can normally be reached on M-F (7:00-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (703) 308-1373. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sophia S. Chen
Primary Examiner
Art Unit 2852

Ssc
November 15, 2004